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HILLAIR CAPITAL MANAGEMENT, LLC

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA – LOS ANGELES DIVISION

In re
SCOOBEEZ, INC., et al.

Debtors and Debtors
in Possession.

Lead Case No. 2:19-bk-14989-WB
Chapter 11
(Jointly Administered with
Case Nos. 2:19-bk-14991; 2:19-bk-14997)

Affects:

- ☒ All Debtors
☐ SCOOBEEZ, INC., only
☐ SCOOBEEZ GLOBAL, INC.
only
☐ SCOOBUR, LLC only

**HILLAIR CAPITAL MANAGEMENT, LLC'S
REPLY REGARDING MOTION FOR ORDER
AUTHORIZING FILING OF CONFIDENTIAL
DOCUMENTS UNDER SEAL PURSUANT TO
FEDERAL RULE OF BANKRUPTCY
PROCEDURE 9018**

Continued Hearing:

Date: November 18, 2019
Time: 10:00 a.m.
Place: U.S. Bankruptcy Court
Courtroom 1375
255 East Temple Street
Los Angeles, CA 90012

1 **TO THE HONORABLE JULIA BRAND, UNITED STATES BANKRUPTCY JUDGE,**
2 **THE DEBTORS, THEIR COUNSEL AND ALL PARTIES IN INTEREST:**

3 Hillair Capital Management LLC and its affiliates (collectively, “Hillair”), senior secured
4 creditor of Scoobeez, Inc., a California corporation, debtor in the above-captioned chapter 11
5 bankruptcy case (“Scoobeez”), and its affiliated debtors, Scoobeez Global, Inc., an Idaho
6 corporation (formerly known as ABT Holdings, Inc.) (“Scoobeez Global”) and Scoobur, LLC, a
7 California limited liability company (“Scoobur”) (collectively, the “Debtors”), submit this reply
8 regarding their *Ex Parte Motion for Order Authorizing Filing of Confidential Documents Under*
9 *Seal* [Docket No. 365] (the “Motion to Seal”).

10 In connection with the sale of substantially all of the Debtors’ assets to Hillair, the
11 Debtors and Hillair entered into that certain Asset Purchase Agreement as of September 11, 2019.
12 See Docket No. 318. On September 19, 2019, the Debtors filed their *Motion for Entry of Order*
13 *(I) Authorizing the Sale of Substantially All of the Assets of Debtor Outside the Ordinary Course*
14 *of Business, Etc.* [Docket No. 329] (the “Sale Motion”) seeking to sell substantially all of the
15 Debtors’ assets to Hillair as the stalking horse bidder. The Debtors also filed on September 19,
16 2019, their *Notice of Potential Assumption and Assignment of Executory Contracts and*
17 *Unexpired Leases in Connection with the Sale* [Docket No. 336] (the “Assumption Notice”).

18 On October 1, 2019, Amazon Logistics, Inc. (“Amazon”) filed its *Objection to*
19 *Assumption and Assignment of Delivery Providers Terms of Service Work Order* [Docket No.
20 349] (the “Amazon Objection”). Certain of the Debtors’ equity holders also filed objections to
21 the Debtors’ Sale Motion: (1) the *Opposition to Motion for Entry of Order (I) Authorizing the*
22 *Sale of Substantially All of the Assets of Debtor, Etc.* [Docket No. 344], and (2) the *Joinder and*
23 *Opposition to Motion for Entry of Order (I) Authorizing the Sale of Substantially All of the Assets*
24 *of Debtor, Etc.* [Docket No. 354] (collectively, the “Sale Objections”)

25 Hillair filed its Motion to Seal to seek authorization from the Court to file two exhibits
26 under seal with respect to Hillair’s omnibus reply to the Sale Objections and reply to the Amazon
27 Objection. The matter was set for hearing on October 17, 2019 and subsequently continued to
28

1 November 18, 2019 for the parties to attempt to resolve the issues relating to the Sale Motion, the
2 Assumption Notice and the Amazon Objection.

3 The Debtors were not able to resolve the Amazon Objection or assign the underlying
4 agreement with Amazon to Hillair. Since Amazon is the Debtors' only source of revenue, this
5 failure constituted a "material adverse effect" under the Asset Purchase Agreement. Accordingly,
6 on November 1, 2019 Hillair exercised its rights under the Asset Purchase Agreement to
7 terminate that agreement.

8 Hillair understands that the Debtors will not be proceeding with a sale of the Debtors'
9 assets to Hillair or any other party, and that they intend to withdraw the Sale Motion. For this
10 reason, Hillair's Motion to Seal and the related *Amazon Logistics, Inc.'s Opposition to Motion to*
11 *File Under Seal* [Docket No. 416] are moot. Hillair hereby withdraws its Motion to Seal and
12 does not intend to submit the exhibits that were the subject of the Motion to Seal into evidence.

13 DATED: November 12, 2019

BUCHALTER, a Professional Corporation

14 By /s/ Anthony J. Napolitano

15 STEVEN M. SPECTOR

16 ANTHONY J. NAPOLITANO

17 and

18 OLSHAN FROME WOLOSKY LLP

19 ADAM H. FRIEDMAN

20 Attorneys for secured creditor

21 HILLAIR CAPITAL MANAGEMENT, LLC

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
BUCHALTER, 1000 Wilshire Blvd, Suite 1500, Los Angeles, CA 90017

A true and correct copy of the foregoing document entitled (*specify*) **HILLAIR CAPITAL MANAGEMENT, LLC'S REPLY REGARDING MOTION FOR ORDER AUTHORIZING FILING OF CONFIDENTIAL DOCUMENTS UNDER SEAL PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 9018** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) November 12, 2019, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- **Richard T Baum** rickbaum@hotmail.com, rickbaum@ecf.inforuptcy.com
- **Bradley E Brook** bbrook@brooklaw.com, paulo@brooklaw.com; brookecfmail@gmail.com
- **Richard W Esterkin** richard.esterkin@morganlewis.com
- **John-Patrick M Fritz** jpf@lnbyb.com, JPF.LNBYB@ecf.inforuptcy.com
- **Riebert Sterling Henderson** shenderson@gibbsgiden.com
- **Vivian Ho** BKClaimConfirmation@ftb.ca.gov
- **David Brian Lally** davidlallylaw@gmail.com
- **Alvin Mar** alvin.mar@usdoj.gov, dare.law@usdoj.gov
- **Ashley M McDow** amcdow@foley.com, sgaeta@foley.com; mhebbeln@foley.com; swilson@foley.com; jsimon@foley.com
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- **Steven M Spector** sspector@buchalter.com, IFS_efiling@buchalter.com; salarcon@buchalter.com
- **United States Trustee (LA)** ustpreion16.la.ecf@usdoj.gov
- **Kimberly Walsh** bk-kwalsh@texasattorneygeneral.gov
- **Eric D Winston** ericwinston@quinnemanuel.com
- **Eric K Yaeckel** yaeckel@sullivanlawgroupapc.com

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) November 12, 2019, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Debtor
Scoobeez
3463 Foothill Blvd.
Glendale, CA 91214

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) November 12, 2019, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

VIA OVERNIGHT MAIL

Hon. Julia W. Brand
U.S. Bankruptcy Court – Central District of California
Edward R. Roybal Federal Building and Courthouse
255 E. Temple Street, Suite 1382
Los Angeles, CA 90012

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

November 12, 2019

Sandra Alarcon

/s/ Sandra Alarcon

Date

Printed Name

Signature